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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,468	06/27/2003	William Pugh	Google-5/CON1 (GP-016-01-	9373
26479	7590	01/24/2006	EXAMINER	
STRAUB & POKOTYLO 620 TINTON AVENUE BLDG. B, 2ND FLOOR TINTON FALLS, NJ 07724			NGUYEN, MERILYN P	
			ART UNIT	PAPER NUMBER
			2163	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/608,468

Applicant(s)

PUGH ET AL

Examiner

Marilyn P. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 46-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/27/2003</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> .                  |

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### ***DETAILED ACTION***

1. In response to the preliminary amendment dated 06/27/2003, claims 46-54 are pending in this application.
2. This application is a continuation of 09/768947 now patent numbered 6,658,423.

### ***Acknowledges***

2. Receipt is acknowledged of the following items from the Applicant:
  - Information Disclosure Statement (IDS) made of record. The references cited on the PTOL 1449 form filed on 06/27/2003 have been considered.

### ***Claim Objection***

3. Claim 54 is objected to because of the following informalities: claim depends on itself.

Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 46 and 49 are rejected on the ground of nonstatutory double patenting over claims 14-16 of U. S. Patent No. 6,658,423 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: Claim 46 of the instant application is fully disclosed in claim 14 recitations referenced a) and b) i) and ii) of patent '423. Claim 49 of the instant application fully disclosed in claims 15 and 16 of patent '423.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

5. Claim 47 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,658,423. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim 14 of patent '423 are substantially similar in scope to the claim of the instant application. In particular, claim 47 of the instant application recites a "device" which is an obvious variation of the "method" [claim 14], of patent '423.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 48 is rejected under 35 U.S.C. 102(e) as being anticipated by Judd (U.S. Patent No. 6,360,215).

Regarding claim 48, Judd discloses a machine-readable medium having stored thereon a plurality of records (Index 16, Fig. 1 and col. 6, lines 47-48 and lines 66-67), each of the records comprising:

- a) a first field for storing a document identifier (col. 7, lines 3-4); and
- b) a plurality of lists, each of the plurality of lists containing elements of a document identified by the document identifier stored in the first field (See col. 7, lines 45-56), wherein a hash function is used to determine which of the plurality of lists each of the elements will be contained in (See col. 7, line 65 to col. 8, lines 11).

7. Claim 49 is rejected under 35 U.S.C. 102(e) as being anticipated by Broder (US 6,119,124).

Regarding claim 49, Broder discloses a method for determining whether two documents are near-duplicates (See col. 4, line 6 et seq.), the method comprising:

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a) for each of the two documents, generating at least two fingerprints (See col. 4, lines 19-24, wherein unique identifications of a document can be computed as digital fingerprints corresponding to at least two fingerprints for each document); and

b) determining whether or not the two documents are near-duplicate documents by

i) determining whether or not any one of the fingerprints of a first of the two documents matches any one of the fingerprints of a second of the two documents (See col. 10, lines 27-29), and

ii) if it is determined that anyone fingerprints of the first of the two documents does match any one fingerprints of the second of the two documents, then concluding that the two documents are near-duplicates (See 10, lines 27-29).

8. Claims 50-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Bates (U.S. Patent No. 6,873,982).

Regarding claims 50-54, Bates discloses a machine-readable medium having stored thereon a plurality of records (See Fig. 4), each of the records comprising:

a) a first field for storing a document identifier (Document Identifier field 102, Fig. 4); and

b) a plurality of lists (Key 1....Key N, reference 106, Fig. 4), each of the plurality of lists containing elements of a document identified by the document identifier stored in the first field (See col. 9, lines 1-3),

Bate teaches a plurality of records organized into a table, each record reflects a document at Fig. 4 and col. 6, lines 33-45, wherein each record having plurality of keyword fields (lists).

Since a document may not have the same keywords with other documents, therefore, some of the

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key fields 106 include no keyword (element). Thus, Bates teaches wherein at least some of the plurality of lists include different numbers of elements and wherein at least one of the plurality of lists include no elements as per claims 50 and 51.

Bate teaches wherein contiguous elements in a document are not necessarily contiguous elements of a list as one having ordinary skill in the art would have recognized that table in Fig. 4 stores plurality of key fields for keywords in documents thus keywords in document are not necessarily contiguous in key fields as per claim 52.

Bate teaches wherein for each of the records, the number of lists is the same as each of records has the same number of key 1 to key N fields as per claim 53. Since each document may have the same keywords with other documents or may not have the same keywords with other documents, however, document records still have the same number of key fields (list) range from 1 to N in the table; therefore, Bate teaches wherein a number of the plurality of lists is independent of document size as per claim 54.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bates (U.S. Patent No. 6,873,982), in view of Judd (U.S. Patent No. 6,360,215).

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Regarding claim 48, Bates discloses a machine-readable medium having stored thereon a plurality of records (See Fig. 4), each of the records comprising:

- a) a first field for storing a document identifier (Document Identifier field 102, Fig. 4); and
- b) a plurality of lists (Key 1....Key N, reference 106, Fig. 4), each of the plurality of lists containing elements of a document identified by the document identifier stored in the first field (See col. 9, lines 1-3).

However, Bates is silent as to teach using a hash function to determine which of the plurality of lists each of the elements will be contained in. On the other hand, Judd teaches applying a hash function to determine which of the plurality of lists each of the elements will be contained in (See col. 7, line 65 to col. 8, lines 11, Judd et al.). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate a hash function into Bates system to determine which of the plurality of lists each of the elements will be contained in as suggested by Judd. The motivation would have been to uniquely identify each word in the document using hash value in order to have a low collision rate between words.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bates U.S Patent No. 6,088,707 discloses computer system and method of displaying update status of linked hypertext documents.



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Smith U.S Patent No. 6,052,693 discloses system for assembling large databases through information extracted from text sources.


Johnson U.S Patent No. 5,850,490 discloses analyzing an image of a document sing alternative positioning of a class of segments.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Merilyn P Nguyen whose telephone number is 571-272-4026.

The examiner can normally be reached on M-F: 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
MN  
January 18, 2005

  
**FRANTZ COBY**  
**PRIMARY EXAMINER**